IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT APPEAL NO : 892 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22-4-2004 in Writ Petition NO : 7452 OF 2004 on the file of the High Court.)

Between:
G. Venkata Subbaiah, S/o. Late Sri Obaiah,
R/o. 47-1-1, Koneruvari Street, Patamata, Vijayawada – 520 010.
Union of India, rep by

….. APPELLANT

AND

1 The General Manager, South Central Raiway,
Rail Nilayam, Secunderabad.
2 The FA & CAO/SC South Central Railway, Vijayawada.
3 The Senior Divisional Engineer (North) South Central Railway, Vijayawada.
4 The Divisional Finance Manager/MZA South Central Railway, Vinayawada.

…..RESPONDENT(S)

For the Appellant:MR.PRASAD RAO VEMULAPALLI

For the Respondent No.: MR.GOURI SHANKAR SANGHI

The Court Made the Following Judgment:

(per The Hon'ble The Chief Justice Sri Devinder Gupta)

Appeal is against the order passed by the learned single Judge dismissing the writ petition on the ground that it involved disputed questions of fact which cannot be gone into in the writ petition.

As a matter of fact, writ petition was dismissed on the very first day by which date even affidavit in reply of the respondents had not come on record. The facts alleged in the writ petition will become disputed only

when the opposite party disputes the same in the counter-affidavit. Without there being counter-affidavit it could not be assumed that there are disputed questions requiring adjudication and for that this Court may not exercise jurisdiction under Article 226 of the Constitution of India.

In view of the above, we allow the appeal and set aside the impugned order with direction that writ petition will be taken up for admission. Learned counsel for the respondents states that he will file counter-affidavit in the writ petition within three weeks. List the writ petition before the learned single Judge after four weeks.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

18th June, 2004.
nmr

JOINT REGISTRAR

To

1 The General Manager, South Central Raiway,
Rail Nilayam, Secunderabad.
2 The FA & CAO/SC South Central Railway, Vijayawada.
3 The Senior Divisional Engineer (North) South Central Railway, Vijayawada.
4 The Divisional Finance Manager/MZA South Central Railway, Vinayawada
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